



Patent  
Attorney Docket: 266/186

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Bander, Neil H.

Serial No.: 09/929,546

Filed: August 13, 2001

(Continuation of S.N. 09/357,708 (242/028))

For: TREATMENT AND DIAGNOSIS OF  
CANCER

Group Art Unit: 1642

Examiner: Not yet assigned

PETITION UNDER 37 C.F.R. 1.182 TO WITHDRAW  
FINDING OF OMITTED ITEMS FROM APPLICATION FILING

Commissioner for Patents  
Washington, D.C. 20231

Sir:

1. A Notice to File Corrected Application Papers was issued by the U.S. Patent and Trademark Office, Office of Initial Patent Examination ("OIPE") on September 10, 2001 (copy attached as **Exhibit A**). In that Notice, the Office stated that Figures 12A-12F appeared to have

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DAH:122475 Name/Number:09929546  
FC: 704 \$130.00 CR

CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

October 25, 2001  
Date of Deposit

LA-214808.1

Felicia Reyes

Name of Person Mailing Paper

*Felicia Reyes*

Signature of Person Mailing Paper

Adjustment date: 03/18/2002 AKELLEY  
12/07/2001 SLUANG: 00000055 09929546

been omitted from the specification when the application was filed in the U.S. Patent and Trademark Office on August 13, 2001.

2. Applicant contends that the above-noted items were in fact deposited in the U.S. Patent and Trademark Office when the application was filed on August 13, 2001. The application was filed in the U.S. Patent and Trademark Office on August 13, 2001 as a continuation application under 37 CFR 1.53(b), with the following items: a transmittal; an application (61 pages of specification, 6 pages of claims, 1 page of Abstract, and 12 pages of informal drawings); a copy of the Declaration and Power of Attorney filed in the parent application; a copy of the Assignment; and a return postcard. A copy of the transmittal that detailed the contents of the submission is attached as **Exhibit B**. A copy of the return postcard that also detailed the contents of the submission is attached as **Exhibit C**.

3. Applicant contends that Figures 12A-12F were contained on a single drawing sheet filed with the application. A copy of the drawing sheet containing Figures 12A-12F as filed with the specification on August 13, 2001 is attached as **Exhibit D**. The drawing sheet bearing Figs. 12A-12F is labeled "Figure 12" near the bottom edge of the page. Above the legend, a total of six separate panels are shown. Each panel is labeled with a different letter (A through F) in the upper left corner of the panel. Thus, each panel corresponds to one of Figs. 12A to 12F.

4. In support of the conclusion that the submission contained the drawing sheet bearing Figs. 12A-12F, Applicant notes that the PTO Mail Room reviewed the submission upon filing and noted that the Transmittal was missing. Applicants believe that the Transmittal was in fact submitted with the other items listed on the Return Postcard; however, more importantly, Applicant notes that the Mail Room did NOT find that any other parts of the submission were missing.

Applicant submits this provides evidence that drawing sheet bearing Figure 12 was part of the submission and was present when the Mail Room staff reviewed the application.

5. THEREFORE, Applicant respectfully requests the that the finding of omission of Figures 12A through 12F from the original application submission be withdrawn and a filing date of August 13, 2001 be granted to the above application.

6. Please note that filed concurrently with this Petition is Applicant's response to the PTO's "Notice to File Corrected Application Papers," including formal drawings under 37 CFR §1.84.

Applicant respectfully submits that all application items are now in order for the Petition to be granted.

A check is attached herewith to cover the \$130.00 petition fee as requested in the Notice to File Corrected Application Papers. As indicated in the Notice, Applicant respectfully requests that said petition fee be refunded to Applicant, upon grant of the Petition. If any additional fee is due, the Commissioner is authorized to charge counsel for applicant's deposit account 12-2475.

Respectfully submitted,

LYON & LYON LLP

Dated: October 25, 2001

By: 

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